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 PURSUANT TO GOVERNMENT
 CODE § 6103]**

Attorneys for Defendants
 CITY OF PALOS VERDES ESTATES and
 CHIEF OF POLICE JEFF KEPLEY

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA; WESTERN DIVISION**

CORY SPENCER, an individual;
 DIANA MILENA REED, an
 individual; and COASTAL
 PROTECTION RANGERS, INC., a
 California non-profit public benefit
 corporation,

Plaintiffs,

v.

LUNADA BAY BOYS; THE
 INDIVIDUAL MEMBERS OF
 THE LUNADA BAY BOYS,
 including but not limited to SANG
 LEE, BRANT BLAKEMAN,
 ALAN JOHNSTON aka JALIAN
 JOHNSTON, MICHAEL RAE
 PAPAYANS, ANGELO
 FERRARA, FRANK FERRARA,
 CHARLIE FERRARA and N.F.;
 CITY OF PALOS VERDES
 ESTATES; CHIEF OF POLICE
 JEFF KEPLEY, in his
 representative capacity; and DOES
 1-10,

Defendants.

Case No. 2:16-cv-02129-MWF-RAO

Assigned to
 District Judge: Hon. Michael W.
 Fitzgerald
 Courtroom: 5A First Street Courthouse

Assigned Discovery:
 Magistrate Judge: Hon. Rozella A. Oliver

**[EXEMPT FROM FILING FEES
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 6103]**

**DEFENDANTS CITY OF PALOS
 VERDES ESTATES AND CHIEF OF
 POLICE JEFF KEPLEY'S SUR-
 REPLY TO PLAINTIFFS' MOTION
 TO STAY ENFORCEMENT OF
 COSTS JUDGMENT**

Vacated Date: July 20, 2020

Complaint Filed: March 29, 2016
 Trial: N/A

I. DEFENDANT CITY OF PALOS VERDES ESTATES’ MOTION FOR JUDGMENT ON THE PLEADINGS IN THE STATE COURT ACTION WAS GRANTED ON JULY 14, 2020

Plaintiffs’ primary argument in support of a stay on the enforcement of the costs judgment in this action was that they were likely to succeed on the merits of their California Coastal Act claim in the State Court Action, despite facing the July 9, 2020 hearing on Defendant’s Motion for Judgment on the Pleadings in that matter. (Dkt. 640, at 3:12-15, fn. 3; 8:13-20.) **However, having taken the matter under submission after oral argument on July 9, 2020, Judge Hogue in Los Angeles Superior Court granted Defendant’s Motion for Judgment on the Pleadings** on July 14, 2020, with limited leave to amend to file a Fifth Amended Complaint. (Supplemental Declaration of Kevin J. Grochow (“Supp. Grochow Decl.”), ¶¶ 2-3, Ex. A, B.)

In order to state a viable claim Judge Hogue ordered that “Plaintiffs must allege that City employees constructed unpermitted structures or formed agreements directing others to construct them.” (Supp. Grochow Decl., ¶ 2, Ex. A, at 25:21-25.) At oral argument, counsel for Plaintiffs conceded that they “can’t prove” that “City employees actually constructed physical structures on the beach or formed agreements to do so.” (Supp. Grochow Decl., ¶ 4, Ex. C, at 11:25 – 12:2.) They requested that if Judge Hogue was going to stick with her tentative ruling ordering the same—which she did—“that the Court simply stay the proceedings with respect to the remaining defendants so that we can adjudicate this issue on appeal.” (Supp. Grochow Decl., ¶ 4, Ex. C, at 12:3-7.) This is because they acknowledge that “Plaintiffs are unable to amend to allege that the city was actively involved in the construction of the rock fort.” (Supp. Grochow Decl., ¶ 4, Ex. C, at 22:15-18.) As for the other alleged conduct by the City, Judge Hogue concluded that “it is not actionable under the Coastal Act.” (Supp. Grochow Decl., ¶ 4, Ex. A, at 25:24-25.)

1 Accordingly, Defendants respectfully request that this Court deny Plaintiffs'
2 request for a stay on enforcement of the costs judgment in this matter, particularly
3 in light of these recent developments affecting Plaintiffs' likelihood of success on
4 the State Court Action.

5 Dated: July 15, 2020

KUTAK ROCK LLP

6
7 By: /s/ Kevin J. Grochow

8 Edwin J. Richards
9 Antoinette P. Hewitt
10 Christopher D. Glos
11 Kevin J. Grochow
12 Attorneys for Defendants
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14 and CHIEF OF POLICE JEFF KEPLEY
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CERTIFICATE/PROOF OF SERVICE

Spencer, et al. v. Lunada Bay Boys, et al.

USDC Central District Case No. 2:16-cv-02129-MWF-RAO
I, Joanne Kenney, declare:

I am a citizen of the United States and employed in Orange County, California. I am over the age of eighteen years and not a party to the within-entitled action. My business address is 5 Park Plaza, Suite 1500, Irvine, California 92614-8595.

On **July 15, 2020**, I electronically filed the attached document:

DEFENDANTS CITY OF PALOS VERDES ESTATES AND CHIEF OF POLICE JEFF KEPLEY'S SUR-REPLY TO PLAINTIFFS' MOTION TO STAY ENFORCEMENT OF COSTS JUDGMENT

with the Clerk of the court using the CM/ECF system which will then send a notification of such filing to the following:

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I hereby certify that I deposited such envelope in the mail at Irvine, California. The envelope was mailed with postage thereon fully prepaid. I am readily familiar with the firm's practice for collection and processing documents for mailing. Under that practice, this(these) document(s) will be deposited with the

1 U.S. Postal Service on this date with postage thereon fully prepaid at Irvine,
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3 party served, service is presumed invalid if postal cancellation date or postage
4 meter date is more than one day after date of deposit for mailing in affidavit.

5 I hereby certify that I am employed in the office of a member of the Bar of
6 this Court at whose direction the service was made.

7 I declare under penalty of perjury under the laws of the State of California
8 that the above is true and correct.

9 Executed on **July 15, 2020**, at Irvine, California.

10 
11 Margo Reyes

SERVICE LIST

Spencer, et al. v. Lunada Bay Boys, et al.

USDC Central District Case No. 2:16-cv-02129-MWF-RAO

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